

## **INFORMATION BULLETIN #91**

### **INCOME TAX**

**AUGUST 2004**

**DISCLAIMER:** Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided in this Bulletin should only serve as a foundation for further investigation and study of the current law and procedures related to its subject matter.

**SUBJECT:** Blended Biodiesel Tax Credits

**REFERENCES:** IC 6-3.1-27

### **INTRODUCTION**

P.L.224-2003, SECTION 199, effective January 1, 2004 provides for three new tax credits. The first is a credit for producing biodiesel; the second credit is for producing blended biodiesel; and the third is for the retail sale of blended biodiesel through a metered pump at a service station. The credits can be applied against the sales tax, the adjusted gross income tax, the financial institutions tax, and the insurance premiums tax.

## **I. BIODIESEL TAX CREDIT**

Biodiesel is defined as a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats that meets American Society for Testing and Materials specification D6751-02 for biodiesel fuel (B100) blend stock distillate fuels.

A taxpayer that produces biodiesel at a facility located in Indiana is entitled to a credit against the taxpayer's state tax liability equal to the product of one dollar (\$1.00) multiplied by the number of gallons of biodiesel produced by the taxpayer during the taxable year and used to produce blended biodiesel.

The total amount of credits allowed may not exceed one million dollars (\$1,000,000) for all taxpayers and all taxable years.

## **II. BLENDED BIODIESEL TAX CREDIT**

Blended biodiesel is defined as a blend of biodiesel with petroleum diesel, so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater). The term does not include biodiesel (B100).

A taxpayer that produces blended biodiesel at a facility located in Indiana is entitled to a credit against the taxpayer's state tax liability equal to the product of two cents (\$.02) multiplied by the number of gallons of blended biodiesel produced at the Indiana facility and blended with Indiana produced biodiesel.

The total amount of credits allowed may not exceed one million dollars (\$1,000,000) for all taxpayers and all taxable years.

## **III. RETAIL SALE OF BLENDED BIODIESEL TAX CREDIT**

A taxpayer that is a dealer and operates a service station in Indiana at which blended biodiesel is sold and dispensed through a metered pump in a taxable year is entitled to a credit against the taxpayer's state tax liability.

The credit allowed is one cent (\$.01) multiplied by the number of gallons of blended biodiesel sold and dispensed through all the metered pumps located at the service station. The credit must be computed separately for each service station operated by the taxpayer.

The total amount of credits allowed may not exceed one million dollars (\$1,000,000) for all taxpayers and all taxable years.

#### **IV. APPLICATION FORM AND APPROVAL OF THE TAX CREDIT**

Taxpayers desiring to claim one of the three credits must file a claim for credit on Form BD-100 Biodiesel Credit Application, which is available at the Department's web site ([www.in.gov/dor/taxforms/f&eforms](http://www.in.gov/dor/taxforms/f&eforms)).

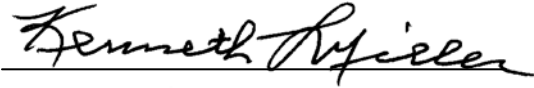
The claim for credit must be completed by the taxpayer and filed with the Department for approval. The approved claim will be returned to the applicant. A copy of the approved claim must be attached to any return on which the credit is taken. The application and claim can be filed on a monthly, quarterly, semi-annual or annual basis depending on which tax type the taxpayer is claiming the credit for. Failure to submit the approved BD-100 with the tax return will result in the claim being denied by the Department.

#### **V. ADMINISTRATION OF THE TAX CREDITS**

Qualifying taxpayers include pass through entities such as S Corporations, partnerships, limited liability companies, and limited liability partnerships. If the pass through entity is entitled to a credit, but does not have state tax liability to which the credit can be applied, a shareholder, partner, or member of the pass through entity is entitled to the credit in the same percentage as the person's distributive income to which the person is entitled.

If the credit is applied against the taxpayer's adjusted gross income tax, financial institutions tax, or insurance premiums tax, the credit shall be taken on the annual return filed by the taxpayer. If the credit is to be applied against a taxpayer's sales tax liability, the credit can be taken on a monthly basis. A taxpayer may not take a credit against sales tax collected as a retail merchant, but may take a credit against the use tax due on the taxpayer's taxable purchases.

If the credit claimed exceeds the taxpayer's state tax liability for the taxable year, the taxpayer may carry over the excess to the following taxable years. The taxpayer is not entitled to a refund or carryback of any unused credits.

A handwritten signature in black ink, reading "Kenneth L. Miller". The signature is written in a cursive style with a horizontal line underneath it.

Kenneth L. Miller  
Commissioner